

**COMMENTS ON
EXIDE RESPONSE ACTION WORK PLAN FOR CLASS 2 "NON-HAZARDOUS" WASTE LANDFILL
DATED DECEMBER 7, 2012**

1. How is it possible that this Plan was submitted to, and approved by, TCEQ on the same day (i.e. December 7, 2012)? Has TCEQ performed a meaningful, arm's length review of this Plan?
2. The Plan does not address how it interrelates with the Site Investigation Report written pursuant to the May 2, 2012 EPA RCRA §3013 Order. That report includes, among other things, remedial measures for the North Landfill.
3. The North Landfill is a SWMU enumerated in Section IX.C of the facility RCRA permit? How does this Plan interrelate with corrective action measures under the permit to be performed for releases of hazardous waste and hazardous constituents?
4. The treatment described for hazardous lead wastes in the Plan would require a RCRA permit, but there is no mention of same in the Plan. See 30 TAC §335.69. Such a permit, or permit modification would require public comment, but the Plan makes no provision for same.
5. Disposal of hazardous waste in the North Landfill makes it a RCRA-regulated unit that should have had interim status and remains an interim status unit until closed and all soils and groundwater impacts have been addressed. 30 TAC §335.111
6. As a regulated unit, it should have a RCRA-compliant groundwater monitoring system and comply with all other applicable interim status standards. 30 TAC Chapter 335, Subchapter E.
7. The Plan is an act of closure that requires compliance with the hazardous waste facility closure standards (30 TAC Chapter 335, Subchapter E), including public comment under 30 TAC §335.118(b).
8. The Plan appears to address only treatment and stabilization of wastes, but does not address potential media impacts by the hazardous wastes for the period that they resided in the landfill. The Plan mentions potential excavation to the clay liner, but omits evaluation of the design criteria or integrity of the liner. How will these potential impacts be addressed if the landfill is backfilled after treatment? See 30 TAC §335.118(b).
9. Will Exide face enforcement action for creating an illegal hazardous waste landfill and be required to observe the full panoply of regulatory requirements applicable to hazardous waste landfills?
10. Why is this work not being performed pursuant to a TCEQ order that would impose automatic enforcement remedies and stipulated penalties for non-compliance given the fact that it was necessitated by a substantial violation of applicable hazardous waste management rules?
11. The flaws and deficiencies noted above constitute grounds for a Motion to Overturn the Executive Director's approval of Exide's Plan. 30 TAC §50.139.
12. Given the pendency of the RCRA §3013 order, EPA needs to be involved in oversight of the work. What provision has been made for such oversight?